

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LESLIE JONES,

Plaintiff,

Case No. 2:04-cv-01933 ALA (P)

vs.

LIEUTENANT E. SANDY, et al.,

Defendants.

ORDER

Plaintiff Leslie Jones is proceeding *pro se* and *in forma pauperis* in the civil rights action pursuant to 42 U.S.C. § 1983. Before this Court is Plaintiff's "Motion Requesting Permission to Add the Following Defendant's [sic] to this Action Under Federal Rules of Civil Procedure Rule 19(a) 'Joiner [sic] of Persons Needed for Just Adjudication,' and Rule 21 Misjoinder and Non-joinder [sic] of Parties" (Doc. No. 102).

The parties are directed to file, on or before June 16, 2008, simultaneous briefs consisting of no more than seven pages, discussing the following questions:

(1) What is the applicability, if any, of *Bowles v. Reade*, 198 F.3d 752 (9th Cir. 1999), and *Texaco, Inc. v. Ponsoldt*, 939 F.2d 794 (9th Cir. 1991), to the question whether Plaintiff's motion should be dismissed on the grounds of undue delay? Plaintiff should set forth facts explaining the delay in filing the motion to add parties almost three years after the claims were exhausted. Defendant should set forth facts, if any, of any prejudice that Defendant would suffer

1 if Plaintiff's motion were to be granted.

2 (2) What is the applicability, if any, of *McKinney v. Carey*, 311 F.3d 1198 (9th Cir.  
3 2002) and *Lira v. Herrera*, 427 F.3d 1164 (9th Cir. 2005) to the question whether plaintiff may  
4 join parties previously dismissed for failure to exhaust administrative remedies, once exhaustion  
5 has occurred? The parties should address whether these cases are relevant to Plaintiff's motion  
6 to add defendants.

7 The parties are on notice that if the Court grants Plaintiff's motion the present trial date  
8 will be postponed to prevent prejudice and allow further discovery.

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10 DATED: June 2, 2008

11 /s/ Arthur L. Alarcón  
12 UNITED STATES CIRCUIT JUDGE  
13 Sitting by Designation  
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